

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,

Plaintiff,

v.

TIMOTHY CALLAHAN, RICHARD WALSH,
CITY OF BOSTON, FRANCIS M. ROACHE,
and PATRICIA A. MURPHY,

Defendants.

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Civil Action No. 04-11193-JLT

ORDER

December 5, 2011

TAURO, J.

For the reasons given below, this court hereby orders that the proceedings against Defendants City of Boston and Roache are STAYED pending the outcome of Defendant Callahan's appeal of the judgement against him [#421] to the First Circuit.¹ As part of its power to manage the proceedings before it, a district court has broad discretion in deciding to stay a case.² This discretion is to be applied only after weighing the value of a stay to both the court and the parties.³ Factors to be weighed include the interests of judicial economy and the hardship to

¹ The proceedings in this case were bifurcated. First, Plaintiff proceeded against the police officer defendants (Defendants Walsh and Callahan). Upon a finding of liability as to one or both of those Defendants, Plaintiff is to proceed against Defendants City of Boston and Roache. See Electronic Order on 10/15/2009 (noting the liability and damages phases of trial and the separate trial of Defendants City of Boston and Roache).

² Clinton v. Jones, 520 U.S. 681, 706-07 (1997).

³ Landis v. North America Co., 299 U.S. 248, 254-55 (1936).

the parties.⁴

Here Plaintiff's claims against Defendants City of Boston and Roache are dependent upon the constitutional violation that the jury found was committed by Defendant Callahan.⁵ Defendant Callahan has appealed the jury's verdict and the First Circuit has yet to rule on the issue.⁶

Moving forward against Defendants City of Boston and Roache before the First Circuit has ruled on Defendant Callahan's appeal risks great harm to both Defendants and threatens judicial economy. If the First Circuit rules that Defendant Callahan is entitled to a new trial, then the efforts of all of the parties and the court in trying claims against Defendants City of Boston and Roache will have been wasted. The potential inconvenience to Plaintiff- the time spent waiting for the appeal- is very small, especially when weighed against the inconvenience to both Defendants and the court if this action were not stayed.

In consideration of the above, this court hereby STAYS the action against Defendants City of Boston and Roache pending the outcome of Defendant Callahan's appeal to the First Circuit Court of Appeals.

IT IS SO ORDERED.

/s/ Joseph L. Tauro

United States District Judge

⁴ Id., Hewlett-Packard Co., Inc. v. Berg, 61 F.3d 101, 105 (1st Cir. 1995), Bank of America, N.A. v. WRT Realty, L.P., 769 F.Supp.2d 36, 39-40 (D. Mass. 2011).

⁵ Compl. ¶ 16-17.

⁶ Notice of Appeal [#467].